

REMARKS

The present Application is the U.S. national stage of a PCT application (FR99/02280) filed on September 24, 1999. The PCT application claims priority from a foreign patent application, French patent application no. 98/11917, filed on September 24, 1998. Applicant has properly claimed priority to the French application under 35 U.S.C. § 119(a)-(d), based on the PCT application from which the present U.S. application originates. In the Detailed Action, the Examiner objected to Applicant's priority claim based on the fact that the U.S. application was filed more than 12 months after the French application. Applicant respectfully traverses Examiner's objection to Applicant's foreign priority claim under 35 U.S.C. § 119(a)-(d).

On October 17, 2003, the undersigned contacted the Examiner by phone to discuss Applicant's priority claim. During the phone conference the Examiner acknowledged that since Applicant had filed the PCT application within 12 months of the filing date of the French application, Applicant is indeed entitled to claim priority based on the French application. The Examiner has accordingly agreed to withdraw the objection set forth in paragraph 1 of the Detailed Action.

In the specification, paragraphs [0018.1], [0018.2], [0022], and [0024]-[0029], have herein been amended. In paragraphs [0018.1], [0018.2], [0022], and [0024]-[0026], the term "plaque" has been replaced with the term "flange". The amendment is in accordance with the Examiner's suggestion as set forth in paragraph 4 of the Detailed Action. Paragraph [0026] has also been amended by changing reference number 12e to 12d to conform with the proposed changes to Figure 2 of the drawings. Finally, paragraphs [0025] and [0027]-[0029] have been amended by adding reference number 14 following each occurrence of the term "flange".

The drawings have been objected to as failing to comply with 37 C.F.R. § 1.84(p)(5). Figure 2 has been amended in accordance with the Examiner's suggestion as set forth in paragraph 2 of the Detailed Action. In particular, reference number 12c has been changed to 12d. This change is also reflected in the amendments to paragraph [0026] of the specification. Accordingly, it is respectfully requested that the instant objection be withdrawn.

The drawings have also been objected to under 37 C.F.R. § 1.83(a) for failing to show the washer canal and sprayers. Each of these features is described in the specification. Rather than amending the drawings, however, for the sake of expedience and in an effort to advance prosecution of the case, Applicant has instead elected to cancel Claim 18 without prejudice. Accordingly, it is respectfully requested that the instant objection be withdrawn.

Claims 12-22 are now pending in the Application. Claims 12-22 stand rejected.

Claims 12 and 15 have herein been amended. Claim 18 has been canceled without prejudice. Reconsideration is respectfully requested. The above amendments and following remarks are believed to be fully responsive to the outstanding Office Action and to render all claims at issue patentably distinct over the cited references.

Claims 12-22 stand rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed. Notwithstanding, Claim 12 has been amended to state that the flange is not directly exposed to the environment, rather than the open air as previously written. When installed on a vehicle, the flange preferably faces toward the windshield, and is thus protected from direct exposure to the environment by the body of the wiper arm, which generally faces away from the windshield. Support for this amendment can be found at paragraph [0009] of the specification. Furthermore, in an effort to improve the syntax of Claim 12, the phrase "forming streamlining" has been replaced with the phrase "having a streamlined shape". In addition, Claim 15 has been amended by changing its dependency from Claim 12 to Claim 14. Claim 14 provides the antecedent basis for limitation "the ribs". Accordingly, it is respectfully requested that the instant rejections be withdrawn.

Claims 12, 13, 15-17, 19, 20, and 22, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krohm (U.S. Patent No. 2,860,364) in view of Rogers et al. This rejection is respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since neither of the references, either individually or in combination, disclose each and every element of the rejected claims. Although the Examiner acknowledges that Rogers does not disclose the percentage of fibers used in the wiper arm, the Examiner nevertheless contends that the concentration of fibers is related more to the material used rather than any inventive concept. The Examiner further asserts that one skilled in the art could, through routine experimentation, determine the optimum concentration of fibers for the body and flange of the present invention, thereby rendering the claimed concentrations obvious. Such a conclusion is not only incorrect, but is also not supported by the cited references. To the contrary, the concentration of fibers impacts, among other things, the strength and rigidity of the material as well as its resistance to degradation caused by environmental conditions, such as ultra violet radiation from the sun.

In addition to not specifying a fiber concentration, both Krohm (patent '364) and Rogers do not identify any result that can be achieved by selecting a particular fiber concentration. Before a particular concentration can be considered determinable through routine experimentation,

the prior art must, at a minimum, describe the same material being used in a concentration selected to achieve the **same** result sought to be achieved in the subsequent invention. This is due to the fact that only result-effective variables can be subject to optimization through routine experimentation. (See MPEP 2144.05(II)(B)). A particular parameter, such as the concentration of fibers in a material, must first be recognized as a result-effective variable before it can be subject to optimization through routine experimentation. In other words, the parameter must be a variable which achieves a **recognized result** before the determination of the optimum or workable ranges of the variable might be characterized through routine experimentation. Neither Krohm (patent '364) nor Rogers, however, disclose any advantages that can be achieved through use of a particular fiber concentration. Since neither reference specifies any concentration of fibers at all, let alone identifying a particular result that can be achieved by using a particular fiber concentration, there is clearly no basis for concluding that the fiber concentrations of the present invention could be determined through routine experimentation. Accordingly, Applicant respectfully requests that the instant rejections be withdrawn.

Krohm (patent '364) and Rogers also do not disclose constructing a device from two separate components, each of which is made from a material having a particular fiber content selected to achieve one or more specific functional characteristics. In contrast to the present invention, the wiper arm disclosed in Figure 8 of Rogers is constructed of a single material that appears to have been selected for its flexible properties. Although the flexibility of the arm varies along its length, this is achieved by altering the cross sectional dimensions of the arm rather than the fiber content of the material used to construct the arm. Since Krohm (patent '364) and Rogers do not disclose a device constructed from materials having different fiber concentrations selected to achieve different results, Applicant respectfully requests that the instant rejections be withdrawn.

Claims 12, 13, 15-17, 19, 20, and 22, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Deibel in view of Rogers et al. This rejection is respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since neither of the references, either individually or in combination, disclose each and every element of the rejected claims. Although the Examiner acknowledges that Rogers does not disclose the percentage of fibers used in the wiper arm, the Examiner nevertheless contends that the concentration of fibers is related more to the material used rather than any inventive concept. The Examiner further asserts that one skilled in the art could, through routine experimentation, determine the optimum concentration of fibers for the body and flange of the present invention,

thereby rendering the claimed concentrations obvious. Such a conclusion is not only incorrect, but is also not supported by the cited references. To the contrary, the concentration of fibers impacts, among other things, the strength and rigidity of the material as well as its resistance to degradation caused by environmental conditions, such as ultra violet radiation from the sun.

In addition to not specifying a fiber concentration, both Deibel and Rogers do not identify any result that can be achieved by selecting a particular fiber concentration. Before a particular concentration can be considered determinable through routine experimentation, the prior art must, at a minimum, describe the same material being used in a concentration selected to achieve the same result sought to be achieved in the subsequent invention. This is due to the fact that only result-effective variables can be subject to optimization through routine experimentation. (See MPEP 2144.05(II)(B)). A particular parameter, such as the concentration of fibers in a material, must first be recognized as a result-effective variable before it can be subject to optimization through routine experimentation. In other words, the parameter must be a variable which achieves a recognized result before the determination of the optimum or workable ranges of the variable might be characterized through routine experimentation. Neither Deibel (patent '364) nor Rogers, however, disclose any advantages that can be achieved through use of a particular fiber concentration. Since neither reference specifies any concentration of fibers at all, let alone identifying a particular result that can be achieved by using a particular fiber concentration, there is clearly no basis for concluding that the fiber concentrations of the present invention could be determined through routine experimentation. Accordingly, Applicant respectfully requests that the instant rejections be withdrawn.

Deibel and Rogers also do not disclose constructing a device from two separate components, each of which is made from a material having a particular fiber content selected to achieve one or more specific functional characteristics. In contrast to the present invention, the wiper arm disclosed in Figure 8 of Rogers is constructed of a single material that appears to have been selected for its flexible properties. Although the flexibility of the arm varies along its length, this is achieved by altering the cross sectional dimensions of the arm rather than the fiber content of the material used to construct the arm. Since Deibel and Rogers do not disclose a device constructed from materials having different fiber concentrations selected to achieve different results, Applicant respectfully requests that the instant rejections be withdrawn.

Claims 12, 13, 15-17, 19, 20, and 22, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krohm (U.S. Patent No. 3,122,770) in view of Rogers et al. This rejection is respectfully traversed. It is believed that the originally filed claims are patentably

distinct over the cited references. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since neither of the references, either individually or in combination, disclose each and every element of the rejected claims. Although the Examiner acknowledges that Rogers does not disclose the percentage of fibers used in the wiper arm, the Examiner nevertheless contends that the concentration of fibers is related more to the material used rather than any inventive concept. The Examiner further asserts that one skilled in the art could, through routine experimentation, determine the optimum concentration of fibers for the body and flange of the present invention, thereby rendering the claimed concentrations obvious. Such a conclusion is not only incorrect, but is also not supported by the cited references. To the contrary, the concentration of fibers impacts, among other things, the strength and rigidity of the material as well as its resistance to degradation caused by environmental conditions, such as ultra violet radiation from the sun.

In addition to not specifying a fiber concentration, both Krohm (patent '770) and *Rogers* do not identify any result that can be achieved by selecting a particular fiber concentration. Before a particular concentration can be considered determinable through routine experimentation, the prior art must, at a minimum, describe the same material being used in a concentration selected to achieve the same result sought to be achieved in the subsequent invention. This is due to the fact that only result-effective variables can be subject to optimization through routine experimentation. (See MPEP 2144.05(II)(B)). A particular parameter, such as the concentration of fibers in a material, must first be recognized as a result-effective variable before it can be subject to optimization through routine experimentation. In other words, the parameter must be a variable which achieves a **recognized result** before the determination of the optimum or workable ranges of the variable might be characterized through routine experimentation. Neither Krohm (patent '770) nor Rogers, however, disclose any advantages that can be achieved through use of a particular fiber concentration. Since neither reference specifies any concentration of fibers at all, let alone identifying a particular result that can be achieved by using a particular fiber concentration, there is clearly no basis for concluding that the fiber concentrations of the present invention could be determined through routine experimentation. Accordingly, Applicant respectfully requests that the instant rejections be withdrawn.

Krohm (patent '770) and Rogers also do not disclose constructing a device from two separate components, each of which is made from a material having a particular fiber content selected to achieve one or more specific functional characteristics. In contrast to the present invention, the wiper arm disclosed in Figure 8 of Rogers is constructed of a single material that

appears to have been selected for its flexible properties. Although the flexibility of the arm varies along its length, this is achieved by altering the cross sectional dimensions of the arm rather than the fiber content of the material used to construct the arm. Since Krohm (patent '770) and *Rogers* do not disclose a device constructed from materials having different fiber concentrations selected to achieve different results, Applicant respectfully requests that the instant rejections be withdrawn.

Claims 14, 15, 18, and 21, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krohm (patent '364) in view of *Rogers*, as applied to Claim 12, and further in view of *Dimur et al.* This rejection is respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since none of the references, either individually or in combination, disclose each and every element of the rejected claims for the reasons set forth above. Moreover, *Dimur* does not constitute prior art pursuant to 35 U.S.C. § 103(c).

STATEMENT OF COMMON OWNERSHIP

The present application has a foreign priority date of September 24, 1998, which is before the May 18, 1999, issue date of the *Dimur* patent. *Dimur* would qualify as prior art, if at all, only under 35 U.S.C. § 102(e). However, under § 103(c), a reference that qualifies as prior art only under one or more subsections (e), (f), and (g) of 35 U.S.C. § 102 shall not preclude patentability under § 103 where the subject matter of the claimed invention was, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. At the time the *Dimur* invention was made, it was subject to an assignment to Valeo Systems D'Essuyage, to whom the patent has since been assigned. Likewise, at the time the present invention was made, it was also subject to an assignment to Valeo Systems D'Essuyage. All rights in the present invention have been assigned Valeo Systems D'Essuyage. Since the *Dimur* invention and the present invention were both subject to an obligation of assignment to the same company at the time the respective inventions were made, the *Dimur* patent does not qualify as prior art. Accordingly, it is respectfully requested that the instant rejections be withdrawn.

Claims 14, 15, 18, and 21, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Deibel* in view of *Rogers*, as applied to as Claim 12, and further in view of *Dimur*. These rejections are respectfully traversed. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since none of the references, either individually or in combination, disclose each and every element of the rejected claims. Once again, Applicant respectfully asserts that *Dimur* does not qualify as prior art for the reasons set

forth above. Accordingly, it is respectfully requested that the instant rejections be withdrawn.

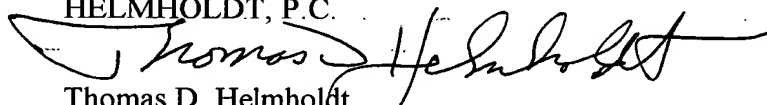
Claims 14, 15, 18, and 21, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krohm (patent '770) in view of Rogers as applied to Claim 12, and in further view of Dimur et al. These rejections are respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. There is no suggestion or motivation to combine the cited references in the manner proposed by the Examiner since none of the references, either individually or in combination, disclose each and every element of the rejected claims. Furthermore, for the reason set forth above, Applicant contends that Dimur does not qualify as prior art. Accordingly, it is respectfully requested that the instant rejections be withdrawn.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application as originally filed. It is further submitted that this Amendment has antecedent basis in the application as originally filed, including the specification, claims and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the application as amended is requested. It is respectfully submitted that this Amendment places the application in suitable condition for allowance; notice of which is requested.

If the Examiner feels that prosecution of the present application can be expedited by way of an Examiner's amendment, the Examiner is invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE, WOOD &
HELMHOLDT, P.C.



Thomas D. Helmholdt
Attorney for Applicant(s)
Registration No. 33181
(248) 649-3333

3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107

Dated: November 25, 2003
TDH/DJC/jml